

**JUSTICE OF THE PEACE COURT OF THE STATE OF DELAWARE
IN AND FOR SUSSEX COUNTY
COURT NO. 17**

HERMAN L HICKS
Plaintiff Below,
Appellant

VS

JOHN SLAGOWSKI
Defendant Below,
Appellee

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C.A. No. JP17-21-003113

TRIAL DE NOVO

Submitted: October 29, 2021
Decided: November 4, 2021

APPEARANCES:

The plaintiff appeared pro se.
Paul G. Enterline Esquire represented the defendant.

Deborah Keenen, Deputy Chief Magistrate
Richard Comly, Justice of the Peace
John C. Martin, Senior Justice of the Peace

Martin for the Court

**JUSTICE OF THE PEACE COURT OF THE STATE OF DELAWARE
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COURT NO. 17**

CIVIL ACTION NO: JP17-21-003113

HERMAN L HICKS VS JOHN SLAGOWSKI

ORDER ON TRIAL DE NOVO

The Court has entered a judgment or order in the following form:

HISTORY

On July 26, 2021 the plaintiff filed this action seeking to "Stay in Residence" where he resided, which was the "New Street House" in Georgetown, Delaware. His complaint stated that the owner of this property was "unjustly and illegally" trying to evict him. On September 9, 2021 the defendant filed a Motion to Dismiss for Lack of Subject Matter Jurisdiction. After a trial, the Court found that the plaintiff's residence was an institution intended as a place for addicts to engage in recovery and as such was exempt from the requirements of Delaware's Landlord-Tenant Code (Code) and that the Court lacked jurisdiction to award the remedies sought by the plaintiff. Therefore, on September 24, 2021 the plaintiff's action was dismissed without prejudice.

On September 29, 2021 the plaintiff filed a timely appeal of this judgment pursuant to Section 5717 of the Code. This is the decision of the Three Judge Panel hearing the claim and a counterclaim as a Trial De Novo.

DISCUSSION

The plaintiff testified about his residence at the "New Street House", which was established as a drug treatment facility. The application for admission to this facility, which the plaintiff signed on August 11, 2019, contains an explanation of the purpose of the facility under the provisions of the Federal Anti-Drug Act of 1988 and the terms of admission. It includes the following: "In accepting these terms, the applicant excludes himself or herself from the normal due process afforded by local landlord-tenant laws".

At the conclusion of the plaintiff's testimony, the Panel considered the plaintiff's Motion to Dismiss for lack of subject matter jurisdiction and found that Section 5102 of the Code identifies exclusions from it. Subsection (1) excludes residence at an institution...where such residence is merely incidental to the provision of ...medical...services.

ORDER

Since the "New Street House" is clearly excluded from the Code, the Court found that it did not have subject matter jurisdiction to award the remedy that the plaintiff sought and the

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Motion to Dismiss the complaint was GRANTED. The counterclaim was withdrawn.

IT IS SO ORDERED 04th day of November, 2021

/s/John C. Martin
Senior Justice of the Peace
For the Three Judge Panel



Information on post-judgment procedures for default judgment on Trial De Novo is found in the attached sheet entitled Justice of the Peace Courts Civil Post-Judgment Procedures Three Judge Panel (J.P. Civ. Form No. 14A3J).

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